



Senate

General Assembly

February Session, 2008

File No. 55

Senate Bill No. 64

Senate, March 19, 2008

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING SCARRING AWARDS UNDER THE WORKERS' COMPENSATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 31-308 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2008*):

4 (c) In addition to compensation for total or partial incapacity or for a
5 specific loss of a member or use of the function of a member of the
6 body, the commissioner, not earlier than one year from the date of the
7 injury and not later than two years from the date of the injury or the
8 surgery date of the injury, may award compensation equal to seventy-
9 five per cent of the average weekly earnings of the injured employee,
10 calculated pursuant to section 31-310, after such earnings have been
11 reduced by any deduction for federal or state taxes, or both, and for
12 the federal Insurance Contributions Act made from such employee's
13 total wages received during the period of calculation of the employee's
14 average weekly wage pursuant to said section 31-310, but not more

15 than one hundred per cent, raised to the next even dollar, of the
16 average weekly earnings of production and related workers in
17 manufacturing in the state, as determined in accordance with the
18 provisions of section 31-309, for up to two hundred eight weeks, for
19 any permanent significant disfigurement of, or permanent significant
20 scar on [, (A) the face, head or neck, or (B) on any other area of the
21 body which handicaps the employee in obtaining or continuing to
22 work. The commissioner may not award compensation under this
23 subsection when the disfigurement was caused solely by the loss of or
24 the loss of use of a member of the body for which compensation is
25 provided under subsection (b) of this section or for any scar resulting
26 from an inguinal hernia operation or any spinal surgery] any area of
27 the body. In making any award under this subsection, the
28 commissioner shall consider (1) the location of the scar or
29 disfigurement, (2) the size of the scar or disfigurement, (3) the visibility
30 of the scar or disfigurement due to hyperpigmentation or
31 depigmentation, whether hypertrophic or keloidal, (4) whether the
32 scar or disfigurement causes a tonal or textural skin change, causes
33 loss of symmetry of the affected area or results in noticeable bumps or
34 depressions in the affected area, and (5) other relevant factors.
35 [Notwithstanding the provisions of this subsection, no compensation
36 shall be awarded for any scar or disfigurement which is not located on
37 (A) the face, head or neck, or (B) any other area of the body which
38 handicaps the employee in obtaining or continuing to work.] In
39 addition to the requirements contained in section 31-297, the
40 commissioner shall provide written notice to the employer or the
41 employer's representative prior to any hearing held by the
42 commissioner to consider an award for any scar or disfigurement
43 under this subsection.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2008	31-308(c)
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LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Dept. of Administrative Services - Workers' Comp. Claims; Various State Agencies	All Funds - Cost	None	924,000
Treasurer	SIF - Cost	None	250,000 - 300,000

Note: SIF=Second Injury Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	STATE MANDATE - Cost	None	See Below

Explanation

The bill expands workers' compensation benefits for scarring and disfigurement to any area of the body. Under current law, benefits are only available if the scarring or disfigurement is on the face, head or neck, or other area of the body which limits the employee in obtaining or continuing to work.

The bill will result in a cost to the state and municipalities, and is a state mandate on municipalities.

In FY 07, the Department of Administrative Services (DAS) state workers' compensation program expended \$105,308 on 21 scar awards. Under the bill, it is estimated that 200 additional claims will generate a scar award for benefits, with an average compensation rate of \$420 per week, and an average award of 11 weeks. Based on these estimates, the DAS state workers' compensation program will expend an additional

\$924,000 in FY 10¹ on scar awards.

The cost to the Second Injury Fund is estimated to be \$250,000 - \$300,000 in FY 10, as only new concurrent employment claims (Sec. 31-310) and uninsured employer claims (Sec. 31-355) are impacted.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The increased claim costs associated with scarring and disfigurement to any body part would begin after October 1, 2009 (in FY 10), as the bill has an effective date of October 1, 2008 and a scar evaluation cannot be made until one year from the date of the injury or surgery from which the scar occurs.

OLR Bill Analysis**SB 64*****AN ACT CONCERNING SCARRING AWARDS UNDER THE WORKERS' COMPENSATION ACT.*****SUMMARY:**

This bill expands the workers' compensation law to provide benefits for permanent disfigurement or scarring of any body part.

Under current law, a workers' compensation commissioner can award benefits for disfigurement or scarring only (1) on the face, head, or neck or (2) on any other area of the body that hinders the employee from obtaining or continuing to work. Claims must be filed at least one year following the date of the injury or surgery and no later than two years following that date.

The bill also eliminates the ban on scarring awards for scars resulting from (1) inguinal hernia or spinal surgery and (2) the loss of, or the loss of use of, a body part for which the claimant received permanent partial disability benefits.

It specifies that a commissioner can provide the employer's representative, instead of the employer, with the required notice of a hearing to consider a scarring award.

EFFECTIVE DATE: October 1, 2007

BACKGROUND***Award Considerations***

By law, in making a disfigurement or scarring award, a commissioner must consider the scar or disfigurement's (1) location and size; (2) visibility due to hyperpigmentation or depigmentation; (3) textural skin change, loss of symmetry, and bumps or depressions; and

(4) other relevant factors.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 7 Nay 3 (03/06/2008)